

Senate Study Bill 3213

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CO=CHAIRPERSON WARNSTADT)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to credit unions and other financial
2 organizations by providing for public funds requirements,
3 approval of bylaws, membership qualifications, preservation of
4 records, and the operation of delayed deposit services
5 businesses.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 6442XK 81
8 eg/je/5

PAG LIN

1 1 Section 1. Section 12C.16, subsection 1, paragraph b,
1 2 subparagraph (4), Code 2005, is amended to read as follows:
1 3 (4) To the extent of the guarantee, loans, obligations, or
1 4 nontransferable letters of credit upon which the payment of
1 5 principal and interest is fully secured or guaranteed by the
1 6 United States of America or an agency or instrumentality of
1 7 the United States of America or the U.S. central credit union,
1 8 a corporate central credit union organized under section
1 9 533.38, or a corporate credit union organized under 12 C.F.R.
1 10 } 704, and the rating of the U.S. central any one of such
1 11 credit union unions remains within the two highest
1 12 classifications of prime established by at least one of the
1 13 standard rating services approved by the superintendent of
1 14 banking by rule pursuant to chapter 17A. The treasurer of
1 15 state shall adopt rules pursuant to chapter 17A to implement
1 16 this section.
1 17 Sec. 2. Section 12C.17, subsection 1, paragraph c, Code
1 18 2005, is amended to read as follows:
1 19 c. The securities shall be deposited with the federal
1 20 reserve bank, the federal home loan bank of Des Moines, Iowa,
1 21 or the U.S. central credit union, a corporate central credit
1 22 union organized under section 533.38, or a corporate credit
1 23 union organized under 12 C.F.R. } 704 pursuant to a bailment
1 24 agreement or a pledge custody agreement.
1 25 Sec. 3. Section 12C.17, subsection 4, Code 2005, is
1 26 amended to read as follows:
1 27 4. Upon written request from the appropriate public
1 28 officer but not less than monthly, the federal home loan bank
1 29 of Des Moines, Iowa, ~~or~~ the U.S. central credit union, a
1 30 corporate central credit union organized under section 533.38,
1 31 or a corporate credit union organized under 12 C.F.R. } 704
1 32 shall report a description, the par value and the market value
1 33 of any pledged collateral by a credit union.
1 34 Sec. 4. Section 533.2, subsection 2, paragraph c, Code
1 35 2005, is amended to read as follows:
2 1 c. By a majority vote of members voting by mailed or
2 2 electronic ballot, ensuring the confidentiality of voters,
2 3 according to procedures specified by rule of the
2 4 superintendent, requiring at least twenty days' notice to all
2 5 members. All amendments must be approved by the
2 6 superintendent before they become effective. An announcement
2 7 shall be made to members of the results of the vote. Ballots
2 8 shall be preserved for a reasonable period of time following
2 9 the vote.
2 10 Sec. 5. Section 533.5, Code 2005, is amended to read as
2 11 follows:
2 12 533.5 MEMBERSHIP.
2 13 The membership of a credit union consists of those persons

2 14 in the common bond, duly admitted, who have paid any required
2 15 one-time or periodic membership fee, or both, have subscribed
2 16 to one or more shares, and have complied with the other
2 17 requirements specified by the articles of incorporation and
2 18 bylaws. ~~To continue membership, a member must comply with any~~
~~2 19 changes in the par value of the share.~~ Credit union
2 20 organization shall be available to groups of individuals who
2 21 have a common bond of association such as, but not limited to,
2 22 occupation, common employer, or residence within specified
2 23 geographic boundaries. Changes in the common bond may be made
2 24 by the board of directors. If adopted as a policy by the
2 25 board of directors of a credit union, members who cease to
2 26 meet qualifications of membership may retain their credit
2 27 union membership and all membership privileges.
2 28 Organizations, incorporated or otherwise, may be members.

2 29 Sec. 6. Section 533.26, Code 2005, is amended to read as
2 30 follows:

2 31 533.26 PRESERVATION OF RECORDS.

2 32 1. The superintendent shall prescribe by rule the period
2 33 of preservation of records or files for credit unions. A
~~2 34 state credit union is not required to preserve its records for~~
~~2 35 a period longer than eleven years after the first day of~~
3 1 January of the year following the time of the making or filing
3 2 of such records. However, account records showing unpaid
3 3 balances due to depositors shall not be destroyed.

3 4 2. A copy of an original may be kept in lieu of any
3 5 original records.

3 6 a. For purposes of this section, a copy includes any
3 7 duplicate, rerecording or reproduction of an original record
3 8 from any photograph, photostat, microfilm, microcard,
3 9 miniature or microphotograph, computer printout,
3 10 electronically stored data or image, or other process which
3 11 accurately reproduces or forms a durable medium for accurately
3 12 and legibly reproducing an unaltered image or reproduction of
3 13 the original record.

3 14 b. A copy is deemed to be an original and shall be treated
3 15 as an original record in a judicial or administrative
3 16 proceeding for purposes of admissibility in evidence. A
3 17 facsimile, exemplification, or certified copy of any such copy
3 18 reproduced from a film record is deemed to be a facsimile,
3 19 exemplification, or certified copy of the original.

3 20 Sec. 7. Section 533.27, unnumbered paragraph 1, Code 2005,
3 21 is amended to read as follows:

3 22 ~~No~~ With the exception of certain account records which
3 23 shall not be destroyed pursuant to section 533.26, liability
3 24 shall not accrue against any credit union destroying any such
3 25 records after the expiration of the time provided in sections
3 26 section 533.26 to, this section, and section 533.29 and in,
3 27 In any cause or proceedings in which any such records or files
3 28 may be called in into question or be demanded of the credit
3 29 union or of any officer or employee thereof of the credit
3 30 union, a showing that such records or files have been

3 31 destroyed in accordance with the terms of said such sections
3 32 shall be a sufficient excuse for the failure to produce them.
3 33 Nothing herein shall require credit unions to retain any class
3 34 of records or files for the period of limitations of actions
3 35 provided herein; but any records, files, or class of records
4 1 not deemed necessary for the conduct of the current business
4 2 of credit unions, or future examinations thereof, or for
4 3 defense in the event of litigation, may be destroyed within
4 4 such period.

4 5 Sec. 8. Section 533D.2, Code 2005, is amended by adding
4 6 the following new subsection:

4 7 NEW SUBSECTION. 1A. "Credit union service organization"
4 8 means an organization, corporation, or association whose
4 9 membership or ownership is primarily confined or restricted to
4 10 credit unions or organizations of credit unions and whose
4 11 purpose is primarily designed to provide services to credit
4 12 unions, organizations of credit unions, or credit union
4 13 members.

4 14 Sec. 9. Section 533D.2, subsection 5, Code 2005, is
4 15 amended to read as follows:

4 16 5. "Superintendent" means the any of the following:
4 17 a. The superintendent of credit unions for licensees which
4 18 are credit union service organizations.

4 19 b. The superintendent of credit unions for credit unions
4 20 acting as delayed deposit services businesses.

4 21 c. The superintendent of banking for all other licensees
4 22 under this chapter.

4 23 Sec. 10. Section 533D.16, Code 2005, is amended to read as
4 24 follows:

4 25 533D.16 APPLICABILITY.

4 26 This chapter does not apply to a bank incorporated under
4 27 the provisions of any state or federal law, a savings and loan
4 28 association incorporated under the provisions of any state or
4 29 federal law, a credit union organized under the provisions of
4 30 any state or federal law, a corporation licensed as an
4 31 industrial loan company under chapter 536A, or an affiliate of
4 32 a bank, savings and loan association, credit union, or
4 33 industrial loan company. A credit union may operate a delayed
4 34 deposit services business and shall not be required to be
4 35 licensed or regulated under this chapter if all fees of the
5 1 delayed deposit services business do not exceed the
5 2 limitations described in section 533D.9.

5 3 Sec. 11. NEW SECTION. 533D.17 RULES FOR CREDIT UNIONS.

5 4 Notwithstanding section 533D.16, the superintendent may
5 5 adopt rules to administer chapter 533D as it applies to credit
5 6 unions. The superintendent shall adopt rules to implement and
5 7 make applicable the fee restrictions, required disclosures,
5 8 and prohibited acts contained in sections 533D.9 and 533D.10
5 9 to a credit union acting as a delayed deposit services
5 10 business in this state.

5 11 The superintendent may adopt rules for licensees that are
5 12 credit union service organizations.

5 13 EXPLANATION

5 14 This bill addresses, among other matters, the deposit of
5 15 public funds in a credit union. Before a public officer can
5 16 deposit public funds with a credit union in excess of the
5 17 amount federally insured, the public officer is required to
5 18 obtain security for the deposit. The credit union may deposit
5 19 securities for the benefit of the public officer including
5 20 those secured or guaranteed by a corporate central credit
5 21 union or a corporate credit union. Further, a credit union
5 22 which receives public funds is required to pledge securities
5 23 owned by the credit union. The bill provides that these
5 24 securities may be pledged by deposit with a corporate central
5 25 credit union or a corporate credit union pursuant to a
5 26 bailment agreement or a pledge custody agreement. A corporate
5 27 central credit union or a corporate credit union then must
5 28 comply with reporting requirements. A corporate central
5 29 credit union and a corporate credit union are organized
5 30 primarily to provide financial services to the federal and
5 31 state credit unions which are members of the corporate central
5 32 credit union or the corporate credit union.

5 33 The bill restores language, previously deleted in 2004
5 34 legislation, that requires the superintendent to approve all
5 35 amendments to the credit union bylaws before they become
6 1 effective.

6 2 The bill eliminates a requirement that to continue
6 3 membership in the credit union, a member must comply with
6 4 changes in the par value of the share.

6 5 The bill specifies that a credit union is not required to
6 6 preserve its records for a period longer than 11 years after
6 7 the first day of January of the year following the time of the
6 8 making or filing of the record. Further, the bill provides
6 9 that account records showing unpaid balances due to depositors
6 10 cannot be destroyed. The bill provides a conforming amendment
6 11 to Code section 533.27 relating to liability for destruction
6 12 of records.

6 13 The bill also modifies Code chapter 533D concerning delayed
6 14 deposit services businesses. A credit union may operate a
6 15 delayed deposit services business and is not required to be
6 16 licensed or regulated provided that all of the fees charged as
6 17 a delayed deposit services business do not exceed the
6 18 limitations imposed on licensees under Code chapter 533D.
6 19 Nevertheless, the superintendent, as defined in the bill, is
6 20 required to adopt rules applicable to credit unions regarding
6 21 fee restrictions, disclosures, and prohibited acts in the
6 22 conduct of a delayed deposit services business. The
6 23 superintendent may adopt rules for credit union service
6 24 organizations.

6 25 LSB 6442XK 81

6 26 eg:rj/je/5.1